

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 16424
[Redacted],	)	
	)	[Redacted]
Petitioner.	)	
	)	

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On November 13, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1995 through 1999 in the total amount of \$13,060.

On January 15, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and did not provide any additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Tax Commission's [Redacted] office that the taxpayer had wages reported to the Idaho Department of Labor. The Bureau researched the Tax Commission's records and found that the taxpayer did not file Idaho income tax returns for the taxable years 1995 through 1999. The Bureau sent the taxpayer a letter asking him about his filing requirement for those years. The taxpayer did not respond.

The Bureau obtained additional information from the [Redacted] and from the Tax Commission's records. The Bureau determined the taxpayer was required to file Idaho income tax returns and prepared income tax returns for the taxpayer. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested.

The taxpayer stated he was not given credit for the cost of doing business. He stated the records for 1995 through 1997 were ready for his tax preparer and that he was still working on the records for 1998 and 1999. The taxpayer requested additional time to gather his documentation together showing his business expenses. The Bureau allowed the taxpayer additional time to submit returns, but the taxpayer failed to provide anything. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond to the Tax Commission's letter, so a follow-up letter was sent. The taxpayer still did not respond. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayer did not deny he was required to file an Idaho income tax return. He also did not contest the Bureau's determination of his income. The taxpayer's only argument was that he was not given credit for the cost of doing business.

The Bureau's determination of the taxpayer's income was derived from a combination of the information obtained from the [Redacted] and from the Tax Commission's records. For 1995 and 1996, the Bureau found that the taxpayer received wages in excess of the filing requirements of Idaho Code section 63-3030. For 1997 through 1999, the Bureau found that the taxpayer reported sales in Idaho in excess of the filing requirements of Idaho Code section 63-3030. The Bureau used the wages and the sales to determine the taxpayer's income.

The taxpayer stated the Bureau did not give him credit for the cost of doing business. However, the taxpayer did not provide any documentation or support for the credit he referred to. Deductions from gross income are a matter of legislative grace, and the taxpayer must be able to show he falls within the terms of the deduction. New Colonial Ice Co., Inc., v. Helvering, 54

S.Ct. 788, (1934). The taxpayer has provided no information to show that there were any allowable deductions.

Furthermore, the taxpayer provided nothing to show that returns prepared by the Bureau were incorrect. He did not meet his burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Therefore, the Tax Commission upholds the Bureau's computation of the taxpayer's tax.

The Bureau added interest and penalty to the taxpayer's Idaho tax deficiency. The Tax Commission reviewed those additions and found both to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated November 13, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$1,027	\$257	\$538	\$1,822
1996	1,319	330	582	2,231
1997	779	195	276	1,250
1998	2,853	713	790	4,356
1999	2,714	679	554	<u>3,947</u>
			TOTAL DUE	<u>\$13,606</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]  
[Redacted]

Receipt No. [Redacted]